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6 GULF INSURANCE COMPANY

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

11 JAMES A. HARRIS) Case No. C 01 4906 CW
12)
13 Plaintiff,) Hon. Claudia Wilken
14)
15 v.)
16)
17 GULF INSURANCE COMPANY) **STIPULATION AND [PROPOSED]**
18) **ORDER TO CONTINUE SCHEDULE**
19) **FOR MOTION FOR SUMMARY**
Defendant.) **JUDGMENT**
MICHAEL J. STONE,)
Plaintiff/Intervenor.)

21 This Stipulation is entered into by plaintiff James A. Harris, plaintiff/intervenor Michael
22 J. Stone, and defendant Gulf Insurance Company, by and through their respective counsel of
23 record.

24 WHEREAS, on July 8, 2005, a case management conference proceeded in this matter
25 before Judge Wilken;

26 WHEREAS, at the case management conference, Judge Wilken ordered the parties to
27 pursue settlement negotiations aimed at effectuating the disposition of this action, including but
28 not limited to a disposition that would facilitate Gulf's stated intent to appeal Judge Wilken's

1 prior ruling on the interpretation of Gulf's Insured versus Insured Exclusion;

2 WHEREAS, the parties have in good faith engaged in serious settlement discussions
3 since the time of the case management conference such that it now appears possible that a
4 mutually acceptable resolution of this action which will facilitate Gulf's appeal can be arrived at
5 between the parties;

6 WHEREAS, at the case management conference, Judge Wilken also ordered defendant
7 Gulf to file its motion for summary judgment on the Genuine Dispute Doctrine by July 29, 2005,
8 for a hearing date on September 2, 2005;

9 WHEREAS, due to the complexity of the negotiations, the Parties subsequently
10 stipulated three times, and Judge Wilken ordered three times, that the schedule for defendant
11 Gulf's motion for summary judgment be continued two weeks so that the Parties could further
12 negotiate settlement such that the deadline to file the motion was continued first to August 12,
13 2005 with a hearing date of September 16, 2005, the deadline to file the motion continued to
14 August 26, 2005 with a hearing date of September 30, 2005, and then the deadline to file the
15 motion continued to September 9, 2005 with a hearing date of October 14, 2005; and

16 WHEREAS, the Parties have now arrived at an agreement but require a little more
17 additional time such that the interests of the Parties and judicial economy would be best served
18 by continuing the schedule for Gulf's motion for summary judgment for yet another two weeks
19 in order to allow the Parties to finalize the papers associated with the agreement for submission
20 to the Court;

21 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED THAT:

22 1. The prior briefing schedule for Gulf's motion for summary judgment is hereby
23 vacated; and

1
2. Gulf shall file its motion for summary judgment on or before September 23, 2005,
3 which motion shall be set for hearing on October 29, 2005.
4

5 SO STIPULATED:

6 DATED: September 7, 2005

TUCKER ELLIS & WEST LLP

7
8 By: _____/S/
9 Peter J. Koenig
10 Alec Boyd
11 Attorneys for Defendant
GULF INSURANCE COMPANY
12

DATED: September 7, 2005

HELLER EHRMAN WHITE & MCAULIFFE

13
14 By: _____/S/
15 Stephen N. Goldberg
16 Celia M. Jackson
17 Attorneys for Plaintiff
JAMES A. HARRIS
18

DATED: September 7, 2005

JEFFER MANGELS BUTLER & MARMARO

19
20 By: _____/S/
21 Julia J. Rider
22 Attorneys for Plaintiff/Intervenor
MICHAEL J. STONE
23

24 SO ORDERED: MOTION SHALL BE SET FOR HEARING ON OCTOBER 28, 2005.

25 DATED: September 9, 2005

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27 By: _____/s/ CLAUDIA WILKEN
28 Hon. Claudia Wilken
United States District Judge

Stipulation and Order

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Stipulation and Order